

## REMARKS

Applicants appreciate the thorough examination of the present application as evidenced by the Office Action mailed February 18, 2009 (hereinafter "Office Action"). Applicants especially appreciate the withdrawal of the previous rejection. In response, Applicants respectfully submit that the cited references fail to disclose or suggest, at least, the recitations of independent Claims 1, 19, 37, and 55. Accordingly, Applicants submit that all pending claims are in condition for allowance. Favorable reconsideration of all pending claims is respectfully requested for at least the reasons discussed hereafter.

### **Claims 1 - 55 are Patentable**

Independent Claims 1, 19, 37, and 55 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U. S. Patent No. 7,046,680 to McDysan et al. (hereinafter "McDysan"). (Office Action, page 2). Independent Claim 1 recites:

A method of modifying at least one of bandwidth and Quality of Service (QoS) for a user session in a network that comprises a Regional/Access Network (RAN) that facilitates differentiated end-to-end data transport between at least one of a Network Service Provider (NSP) and an Application Service Provider (ASP) and a Customer Premises Network (CPN) that includes Customer Premises Equipment (CPE), comprising:

receiving a request at at least one of the NSP and the ASP to change at least one of bandwidth and QoS associated with the user's session; and  
using Application Programming Interface (API) calls at at least one of the NSP and the ASP to communicate with the RAN to modify the at least one of bandwidth and QoS associated with the user's session.

Claims 19, 37, and 55 include similar recitations. According to the independent claims, a request is received at the NSP and/or the ASP to change the bandwidth and/or the QoS associated with an existing user session. The Office Action alleges that the programmable access device 40 shown in FIG. 2 of McDysan corresponds to the NSP/ASP and cites col. 16, lines 59 – 64 along with Fig. 6 of McDysan as disclosing the request for changing bandwidth and/or QoS associated with an existing user session. (Office Action, page 2). In sharp contrast to the recitations of independent Claims 1, 19, 37, and 55, however, the cited passage from McDysan explains that the Resource Reservation Protocol (RSVP) can be used, "[f]or example,

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...to request a path of specified bandwidth at a particular time." (McDysan, col. 16, lines 65 – 66). Thus, McDysan does not teach or suggest receiving a request for a change in bandwidth and/or QoS for an existing user session, but instead teaches that a customer application may use RSVP to request a new network path with a particular bandwidth.

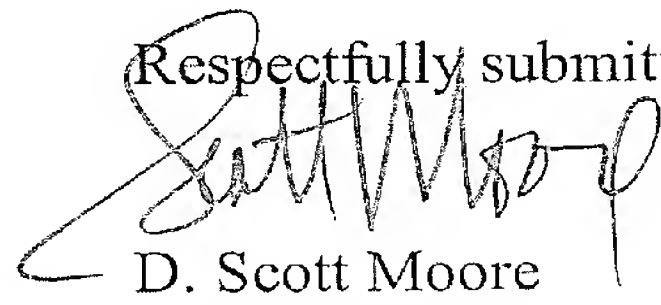
For at least the foregoing reasons, Applicants respectfully submit that independent Claims 1, 19, 37, and 55 are patentable over McDysan, and that dependent Claims 2 - 18, 20 - 36, and 38 - 54 are patentable at least by virtue of their depending from an allowable claim.

#### **Various Dependent Claims are Separately Patentable**

Claims 2 - 18, 20 - 36, and 38 - 54 also stand rejected as anticipated by McDysan. (Office Action, page 2). These claims depend from independent Claims 1, 19, and 37, respectively, and are allowable for at least the reasons discussed above. Many of these claims, however, are separately patentable. For example, as discussed above, McDysan does not disclose receiving a request for a change in bandwidth and/or QoS for an existing user session. Accordingly, McDysan does not disclose any of the details of such a request as recited, for example, in Claims 2, 3, 17, 20, 21, 35, 38, 39, and 53. Applicants, therefore, submit that Claims 2, 3, 17, 20, 21, 35, 38, 39, and 53 are separately patentable for at least these additional reasons.

#### **CONCLUSION**

In light of the above amendments remarks, Applicants respectfully submit that the above-entitled application is now in condition for allowance. Favorable reconsideration of this application, as amended, is respectfully requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (919) 854-1400.

Respectfully submitted,  
  
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**CERTIFICATION OF TRANSMISSION**

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on May 18, 2009.

Signature: \_\_\_\_\_

Kirsten S. Carlos